

ANDOVER CONSERVATION COMMISSION MEETING MINUTES

July 2, 2012

Town of Andover
36 Bartlett Street
2nd Floor Conference Room
7:45pm

Commission Members in Attendance:

Chairman Donald Cooper, Vice Chairman Michael Walsh, Commissioner Alix Driscoll, Commissioner Jon Honea, Commissioner Floyd Greenwood and Commissioner Kevin Porter. Staff Members present were Robert Douglas, Director of Conservation and Linda Cleary, Conservation Agent.

SCHEDULED ITEMS:

35 Rattlesnake Hill Road

Present in Interest: Carol Bartoli

Staff Recommendation: Approve as Neg.3 with conditions.

Public Meeting on the Request for Determination of Applicability filed to determine if the proposed rebuilding of an existing 10 ft. by 10 ft. porch to a 10 ft. by 14 ft. deck is subject to the Massachusetts Wetlands Protection Act.

Agent Cleary presented this to the Commission. The Commission first needs to vote to issue a Satisfactory Completion of Work for DA2005-055 for abandonment of an existing septic system and tie into Town sewer.

Chairman Cooper asked for a Motion. Vice Chairman Walsh made a Motion to issue the Satisfactory Completion of Work, it was seconded by Commissioner Driscoll and unanimously approved.

The Application is complete and under the WPA only. There is a waiver for a professional plan. The existing deck is in need of repair. It will be sona tube construction with no earth disturbing work, all within the existing footprint. Chairman Cooper questioned the position of the deck on the plans provided. Each plan appeared to show a different placement. Agent Cleary used the sewer plan which depicts the deck 30 feet from the wetland boundary. After some discussion, it was decided that one plan hi-lighted both the existing deck and proposed deck. Agent Cleary stated the Conditions provide the language "reconstruction of existing deck as depicted on approved plan...". The Commission requested the following language be inserted, "permission to rebuild existing deck in place, adding 4 foot extension, not closer than 25 feet to the wetland in perpetuity".

Chairman Cooper asked for a Motion. Commissioner Driscoll made a Motion to Approve as Neg.3 adding the language discussed, Vice Chairman Walsh seconded the Motion and it was unanimously approved.

6 NOB HILL CIRCLE

Present in Interest: Thomas Gennaro and Bruce Comak

Staff Recommendation: Approve

Continued Public Meeting on the Request for Determination of Applicability filed to determine if the proposed installation of a pervious paver sitting area, removal of turf grass lawn and the planting of additional wetland plantings is subject to the Massachusetts Wetlands Protection Act.

Mr. Douglas presented this to the Commission. This was continued from June 19, 2012 for purposes of a site visit on June 2, 2012 at 8:00am. The project is located in the Watershed Overlay Protection District with a tributary wetland to Fishbrook. The project is located above grade and will not affect the flood waters. Mr. Douglas believes this to be a permissible project under the Act as discussed. Vice Chairman Walsh stated there is no difference from lawn area to pervious pavers surrounded by lawn area. Commissioner Driscoll recommended no pesticides or fertilizers be used, this was supported by Commissioner Greenwood as well. Commissioner Honea added that the pavers have the same runoff as lawn area, it is not contaminated and agreed to adding new plant growth along the wetland boundary. Commissioner Porter asked if existing vegetation was being removed. There is some existing vegetation which will be removed while existing turf being removed, but will bring wetland line closer to the house with new plantings. Chairman Cooper noted that the project does not meet the 50 foot setback, but this is a relatively small project. The Commission needs to limit the work to the patio area only with no further construction in the backyard due to the Riverfront.

Chairman Cooper asked for a Motion. Commissioner Driscoll made a Motion to Approve with the no pesticides or fertilizers and no further construction in the backyard, it was seconded by Commissioner Greenwood and unanimously approved.

12 COVENTRY LANE

Present in Interest: Steve Stapinski, Nancy Reddish.

Staff Recommendation: Issue Positive Determination to file Notice of Intent and issue Enforcement Order to get site into compliance.

Public Meeting on the Request for Determination of Applicability filed to determine the accuracy of resource areas and if the proposed construction of an in-ground pool, grading, retaining wall and security fence is subject to the Massachusetts Wetlands Protection Act and/or the Andover Wetlands and the Protection By-Law.

Agent Cleary presented this to the Commission. A vote to issue a Satisfactory Completion of Work for DA2006-016 for construction of a replacement septic system, an in-ground pool and patio and building

addition and associated site work. Staff believes the application has expired and the work was not completed. The Commission decided to table this action until the site is brought into compliance.

The Application is complete and the filing is under the WPA only, however the site conditions differ significantly from the site plan. Significant clearing and grubbing has occurred including clearing in a Conservation Easement. The wetland flags are on the ground and appear to have been moved down gradient right up to the stream. The tree line is missing on site, there is an orange, chemical like substance visible, haybales and silt fence are already in place and clearing and the retaining wall in the back has already begun. Staff recommends an Enforcement Order stating the delineation to be done by using hydrology and soils testing, not by plant identification, the revegetation plan be submitted by July 30, 2012 and the sedimentation control established is fine as is.

Steve Stapinski presented the plan depicting the project to the Commission. He represented that the original filing DA2006-16 presented the wetland line at the Conservation Easement. He also agreed that the previous permit expired a year ago. The flagging was done by Norse Environmental and the retaining wall is 35 feet from the wetland line. The property owner has purchased a vinyl "pop up" pool and excavated an area, laid down crushed stone to erect the temporary pool. Brush and vines have been removed along the Conservation Easement and the sedimentation control has been put in place. Commissioner Greenwood commented that the pool does not look temporary. In accordance with the Building Code, the pool cannot remain up for more than 3 months and it will be taken down at the end of summer.

Commissioner Driscoll questioned the Applicant regarding the \$2000 spent to maintain the Conservation Easement as stated in her letter.

Nancy Reddish informed the Commission that she was given permission by the Conservation Commission to remove vines which were strangling a tree. She is still hiring people to remove and clear the vines. She has also experienced a horrible snake problem. The snakes were in the basement, foundation, yard, on the patio, etc. Since the area near the Conservation Easement has been cleared, the snake problem has disappeared. The area that was cleared is growing back on its own.

Staff cannot confirm the wetland line in the condition the site is in now.

Chairman Cooper asked for a Motion. Commissioner Porter made a Motion to issue an Enforcement Order to reestablish the wetland line and submit a plan depicting the same based on hydric soils, areas of unauthorized clearing and any unauthorized work which has already commenced by July 30, 2012 and Issue a Positive 1 Determination and request a Notice of Intent be filed, the motion was seconded by Commissioner Honea and unanimously approved.

410 HIGH PLAIN ROAD

Present in Interest: Steve Stapinski, Stephen Doherty, Leah Basbanes, Scott Hill

Staff Recommendation: Continue to a Date Uncertain

Public Meeting on a Notice of Intent filed under the Massachusetts Wetlands Protection Act and/or the Andover Wetlands Protection By-Law for the proposed reconstruction of an existing barn into a single family home with a deck and driveway.

Mr. Douglas presented this to the Commission. The existing barn was built in 1860, is 3 stories tall and 60 feet long. The Preservation Commission is working with the Applicant to allow the preservation of the barn through conversion into a single family residence. The plan will preserve the natural landscaping and extend the driveway up to the barn into a garage. 24 feet of the foundation will be filled for use as a garage on the side of the barn. MA Historic Commission is reviewing the plan and will have jurisdictional authority.

Steve Stapinski presented the plan to the Commission. The plan presented shows the septic system in the front of the property. Soils testing has been done in the front of the property and the septic system will use chambers to keep the historic features of the landscaping. There is a rock retaining wall that will remain, the deck will be sona tube construction which will allow the woods to remain as the defined limit of work for the site. A temporary retaining wall will be built during construction along the wetland line. The Applicant is requesting a waiver for the setback for the deck, which is less than 50 feet and for the 25 foot no disturb setback for the driveway.

Mr. Douglas asked if the existing foundation will remain intact. The rear of the foundation is open in the back, this area will be closed and the rest of the foundation is fine. The Applicant will excavate 4 feet then bring the wall up to the sill location, all within the footprint of the existing barn. The area where the deck will be constructed, will be the staging area during construction.

Chairman Cooper sees this as a problematic project due to the deck and driveway. The Historic Commission is looking at different items and different standards. He would like a site visit.

Commissioner Greenwood agreed that a site visit was in order and then a further discussion.

Commissioner Driscoll asked if the driveway could be moved to the east side of the barn since it is placed at the wetland line as shown on the plan presented.

Mr. Doherty informed the Commission that the area where the driveway is to be located is already disturbed and an eye sore as it stands now. According to the Preservation Act, the driveway and garage cannot be located in the front of the barn.

Scott Hill addressed the Commission and informed the Commission that 2 inches of water pool on top of the back lawn on the east side and his sump pump runs 3 months out of the year. He fears that any construction or disturbance will cause further water problems.

Peter Yanopolous supports the project and would like the Town to do whatever is necessary to save the historic barn.

Leah Basbanes has reviewed the plans and the property. She recommended the deck remain open and pervious underneath to allow rain to fall through and infiltrate. The debris dumped into the wetland will be removed and the wetland line will be enhanced. Most of the area is already disturbed.

The Commission scheduled a site visit on July 6, 2012 at 7:00am and July 7, 2012 at 8:00am.

Chairman Cooper asked for a Motion. Vice Chairman Walsh made a Motion to continue to a date uncertain, it was seconded by Commissioner Driscoll and unanimously approved.

289 RIVER ROAD

Present in Interest: Steve Stapinski, Leah Basbanes, Gwen Maesano, Wendy Drastal, Jean Tornator, Maria Furnari, Mary Furnari, Bill Wolfendale, Sean Hoffman

Staff Recommendation: Continue to July 15, 2012 and schedule site visit.

Public Hearing on an Abbreviated Notice of Resource Area Delineation filed to determine the boundaries of bordering vegetation wetlands and bank under the Massachusetts Wetlands Protection Act and/or the Andover Wetlands Protection By-Law.

Mr. Douglas presented this to the Commission. This is an ANRAD filing and there is no work associated with this permit, only delineation of the wetlands and resource areas. The house has been demolished and removed from the property. The delineation will be under both the WPA and our By-Law. Mr. Douglas will be reviewing the wetland line with Leah Basbanes July 6, 2012.

Andy Menezes asked if there were any vernal pools on the property. There are a few possible places where there could be vernal pools in the 12 acres.

Sean Hoffman informed the Commission that there is pooling near the back of the property along the Merrimack River.

Bill Wolfendale informed the Commission that there is flooding with abutting neighbors all year.

The Commission scheduled a site visit July 6, 2012.

Chairman Cooper asked for a Motion. Commissioner Greenwood made a Motion to continue to July 17, 2012 at 8:15pm, it was seconded by Commissioner Driscoll and unanimously approved.

ACTION ITEMS

DEER HUNTING PROGRAM

Present in Interest: Ernest Baldwin, Stephen Cooper and Douglas Cooper

Staff Recommendation: Approve additional hunters and properties to be included in hunt.

The dates for the open hunt will be October 15, 2012 through December 21, 2012.

Commissioner Greenwood made a Motion to implement the hunt under the rules and regulations to be discussed, it was seconded by Commissioner Honea and approved by a vote of 5-1 with Commissioner Driscoll opposed.

The rules will remain the same with the following exceptions:

1. The land to be hunted will be increased;
2. The number of hunters will be increased.

There are 39 registered residents to date. 20 nonresidents will be allowed to hunt at the discretion of the Conservation Director. There have been 10 selected alternatives and 9 nonresidents will be held and asked to hunt as needed by the Conservation Director. The Commission agreed to accept 20 nonresidents, 10 alternatives and keep 9 as needed per discretion of the Conservation Director.

Commissioner Porter is concerned with the increase in the numbers from year to year. There were 25 hunters the first year and 40 hunters last year. He feels we should place a cap on the number of hunters.

Chairman Cooper suggested the Commission cap the number of permitted hunters at 80.

Commissioner Porter made a Motion to limit the total number of hunters to 80, it was seconded by Commissioner Honea and approved with Commissioner Driscoll abstaining.

300 acres will be added to the hunt this year. Serio's Grove will be added this year. Chairman Cooper expressed concern regarding the winter camping at Serio's Grove while being allowed to hunt. Mr. Douglas informed the Commission that hunting is only allowed Monday through Friday and not on Holidays. The Commission suggested only hunting on an upland area away from the camping area and advised Mr. Douglas to monitor this area closely during the hunt season. Commissioner Driscoll was opposed to hunting at Serio's Grove as this area is a recreation area.

Commissioner Honea made a Motion to approve the additional lands added to the hunt for land management purposes, it was seconded by Commissioner Greenwood and approved by a vote of 5-1 with Commissioner Driscoll opposed.

23 Sunset Rock Road

Staff Recommendation: Approve

Request for 3 year extension to the Order of Conditions.

Vice Chairman Walsh made a Motion to Approve the extension, it was seconded by Commissioner Honea and approved 5-1 with Commissioner Driscoll opposed.

6 Newport Circle

Staff Recommendation: Issue only if Applicant agrees to withdraw appeal to Superior Court.

Request for 1 year extension to the Order of Conditions.

The extension was tabled on April 17, 2012 for receipt of reforestation plan. Approval should be contingent upon reforestation occurring prior to development of lot. Order of Conditions does not expire until November, 2012.

Commissioner Driscoll made a Motion to Table until movement to withdraw appeal to Superior Court is filed, it was seconded by Commissioner Porter and unanimously approved.

600/800 Federal Street

165/171 Chandler Road

Present in Interest: Susan Mohn

Staff Recommendation: Issue Order of Conditions

Issuance of Order of Conditions. Public hearing was closed June 19, 2012.
The site walk was done and peer review completed.

Commissioner Greenwood made a Motion to issue the Order of Conditions as drafted, it was seconded by Commissioner Driscoll and unanimously approved.

Andover Country Club

Legends I

Andover Country Club

Legends II

Present in Interest: Doug Lees

Staff Recommendation: Issue Amended Order of Conditions for Legends I and Legends II.

Issuance of Amended Order of Conditions. Public Hearings were closed June 19, 2012.
The markers were moved to the haybale line in Legends I.
1 flag to be moved and markers to be moved in front of stone wall and inside haybale line in Legends II.

Commissioner Porter made a Motion to approve upon receipt of revised plans, it was seconded by Commissioner Greenwood and unanimously approved.

CONSENT AGENDA:

Minutes

Approval of Minutes from meeting of June 5, 2012.

Vice Chairman Walsh made a Motion to Approve, it was seconded by Commissioner Driscoll and unanimously approved.

340 Salem Street

Request for Certificate of Compliance.

Vice Chairman Walsh made a Motion to Issue Certificate of Compliance, it was seconded by Commissioner Driscoll and unanimously approved.

69 Ballardvale Road

Request for Certificate of Compliance.

Tabled.

12 Fosters Pond Road

Request for Certificate of Compliance.

Vice Chairman Walsh made a Motion to Issue Certificate of Compliance, it was seconded by Commissioner Driscoll and unanimously approved.

Meeting was adjourned by Motion of Commissioner Driscoll, seconded by Commissioner Greenwood and unanimously approved.

Next meeting will be held on July 17, 2012 at 7:45pm.

Respectfully submitted,

Lynn Viselli,
Recording Secretary